IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

ARBITRATION PETITION NO.94 OF 2005

...

Marris Spinners Ltd.Unit II ...Petitioner

v/s.

Maharashtra State Co.op Cotton
Growers Marketing Fed Ltd. ...Respondent

...

Mr.N. Jayaraman for the Petitioner.

Mr.A.S.Gadkari for the Respondent.

...

CORAM: D.K.DESHMUKH, J.

DATED: 17TH OCTOBER,2005

P.C.:

1. By this petition the Petitioner challenges the award made by the sole arbitrator i.e. Executive Director & Secretary General, East India Cotton Association. I have heard the learned Counsel appearing for the Petitioner at length.

2. The entire claim of the Petitioner was based on the premise that there was a contract between the Petitioner and the Respondent for supply of cotton bales of the quality NHH-44 to the Petitioner and that the Respondent supplied cotton of inferior quality. The learned Arbitrator by referring to the bye-laws of East India Cotton Association, which were admittedly applicable to the transaction between the parties has held that right to determine the quality of the cotton under the bye-laws vests in the surveyor and therefore for raising any dispute as to the quality of the cotton, the cotton bale has to be got examined by the surveyor. Admittedly, the Petitioner did not get the cotton bales examined by the surveyor. Therefore, the learned Arbitrator has

held that a finding that the cotton supplied by the Respondent was of inferior quality cannot be recorded.

3. The learned Counsel appearing for the Petitioner submitted, by referring to paragraph 4 of the reply filed by the Respondent, that there is an admission by the Respondent that the cotton supplied by the Respondent was of different grade than agreed.

4. Perusal of paragraph 4 of the reply shows that the Respondent has categorically denied that 200 cotton bales supplied were inferior to standard NHH-44 cotton. Then, in that paragraph the Respondent has stated his case that there was no agreement to supply of NHH-44 cotton grade.

5. After having gone through paragraph 4, I do not find that the Respondent any where has admitted the case of the Petitioner that the cotton supplied was of inferior grade. As the basic premise of the Petitioner that the cotton supplied was of inferior grade cannot be accepted in the absence of report of the surveyor of the sample, in my opinion, no exception can be taken to the finding recorded by the

learned arbitrator. While considering the validity of the award, this court has to keep in mind the limited jurisdiction conferred by Section 34 on this court to disturb the award and that the award is made by a trade organisation who knows the ins and out of the trade. In any case, I find that the finding on the basis of which the award is made is essentially a finding of fact, which cannot be disturbed by this Court. Petition, therefore, has no substance, it fails and is dismissed. No order as to costs.